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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,335	05/01/2001	Barbara Clough	117-349	4115
7590 10/06/2003				
Nixon & Vanderhye P.C. 1100 N. Glebe Road, 8th Floor Arlington, VA 22201			EXAMINER GRUN, JAMES LESLIE	
			ART UNIT 1641	PAPER NUMBER

DATE MAILED: 10/06/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/845,335

Applicant(s)
CLOUGH et al.

Examiner
James L. Grun, Ph.D.

Art Unit
1641



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 1641

To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Technology Center 1600, Group 1640, Art Unit 1641.

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-3 and 10, drawn to EF-tu protein of *Plasmodium falciparum* and a method
5 using the protein, classified in Class 435, subclass 7.22.

II. Claims 4-9, drawn to encoding DNA and vectors and host cells comprising same, classified in Class 536, subclass 23.1+, Class 435, subclass 320.1, and Class 435, subclass 325+ or subclass 252.3+.

III. Claim 16, drawn to antibodies specific for the EF-tu protein of *Plasmodium*
10 *falciparum*, classified in Class 530, subclasses 388.6 or 389.1.

IV. Claims 11-15, drawn to binding or inhibitory compounds and their use in a treatment method, classified in Class 514, at least subclass 61 (for efrotomycin).

V. Claims 17-21, drawn to a method using 23S ribosomal RNA of *Plasmodium*
falciparum, classified in Class 435, subclass 6.

15 VI. Claim 22, drawn to inhibitory compounds, classified in Class 424, at least subclass 117 (for thiostrepton).

Art Unit: 1641

The inventions are distinct, each from the other because of the following reasons:

The inventions of Groups I-VI, related each to the other, are independent and distinct inventions as they involve products which differ from each other in structure, function, and use. Moreover, methods using the various products differ in design, performance, and function. For example, the nucleic acids of Group II do not require the protein of Group I for use in an assay such as a probe assay and the proteins can be made/purified by a substantially different process not requiring the nucleic acids such as by affinity separation means. The compounds inhibitory for EF-tu are not necessarily antibodies and do not require purified EF-tu protein or encoding nucleic acids for use in a treatment method. The compounds capable of binding ribosomal RNA do not require EF-tu protein or encoding nucleic acids or antibodies specific for EF-tu for identification or use.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Art Unit: 1641

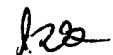
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James L. Grun, Ph.D., whose telephone number is (703) 308-3980. The examiner can normally be reached on weekdays from 9 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, SPE, can be contacted at (703) 305-3399.

The phone numbers for official facsimile transmitted communications to TC 1600, Group 1640, are (703) 872-9306, or (703) 305-3014, or (703) 308-4242. Official After Final communications, only, can be facsimile transmitted to (703) 872-9307.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196. The above inquiries, or requests to supply missing elements from Office communications, can also be directed to the TC 1600 Customer Service Office at phone numbers (703) 308-0197 or (703) 308-0198.



James L. Grun, Ph.D.
October 1, 2003



CHRISTOPHER L. CHIN
PRIMARY EXAMINER
GROUP 1640/641